

No. 2858-4Lab-74/10659.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Haryana Spun Pipe Factory, Sain Majara, tehsil Naraingarh, Ambala.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 67 of 1973

between

SHERI JAGAR RAM AND THE MANAGEMENT OF M/S THE HARYANA SPUN PIPE FACTORY, SAIN MAJARA (TEHSIL NARAINGARH), AMBALA

Present.—

Shri D. S. Rekhi, for the management

Nemo, for the workman.

AWARD

Shri Jagar Ram concerned workman was in the service of M/s The Haryana Spun Pipe Factory, Sain Majara (Tehsil Naraingarh), Ambala as Machineman-cum-Instructor. The management terminated his services with effect from 7th May, 1973 allegedly without any notice or charge-sheet. He raised a dispute for reinstatement and payment of back wages which has been referred to this Court for adjudication, — *vide* order No. JD/AmB 292-B/74-43736/10 dated 17th November, 1973 of the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following terms of reference:—

Whether the termination of services of Shri Jagar Ram was justified and in order? If not, to what relief is he entitled?

The parties were called upon to put in their respective written statements. The workman has not appeared nor any authorised representative on his behalf. The learned representative of the management has stated that since the workman had expressed his regret for having been found sleeping while on duty, — *vide* his application dated 1st May, 1973 Ex. M 1, he has been provided some alternative job and that is why he is not coming forward to pursue the case.

In view of the fact stated above, the presumption is irresistible that the workman concerned having been taken back on duty by the management although on some other job, there is now no dispute left between the parties and a no-dispute award is accordingly given in the case but with out any order to costs.

Dated 25th March, 1974

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak

No. 299, dated 27th March 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 2856-4Lab-74/10661.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Subash Saw Mills, Yamuna Nagar.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 168 of 1972.

*between*

SHRI JINDU RAM AND THE MANAGEMNET OF M/S SUBHASH SAW MILL. YAMUNA NAGAR

*Present :*

Shri Ram Kishan Sehgal, for the workman  
Nemo, for the management.

#### AWARD

By order No. ID/A mb/252-A-72/18243-48, dated 18th May, 1972 of the Govenor of Haryana the following dispute between the management of M/s Subhash Saw Mills, Yamuna Nagar and its workman Shri Jindu Ram was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shri Jindu Ram was justified and in order ? If not, to what relief is he entitled ?"

Usual notices were given to the parties. The management contested the claim of the workman pleading *inter alia* that the demand, the subject matter of the reference, was not first raised on the management and rejected by it and as such it did not constitute an industrial dispute within the meaning of the law. The following issues were framed:—

1. Whether the demand in question was first raised upon the management and rejected by it before taking up the matter to the conciliation ? If not, to what effect ?
2. Whether the termination of services of Shri Jindu Ram was justified and in order ? If not, to what relief is he entitled ?

The management examined only one witness its partner Shri T.K. Chaudhry who admitted the receipt of the demand notice Ex M.1 and further stated that on 3rd December, 1971 the Saw Mill had caught fire and had been completely burnt down as a result whereof the work had to be altogether stopped. He has further stated that this workman did not work continuously for 12 years or so. He has further denied the suggestion that his wages were in arrears for a period of 2 months and 5 days. According to him an advance of Rs 400 had been given to this workman.

After examining the above witness, the management did not take any interest in the present proceedings and their authorised representative Shri Subhash Chander withdrew himself from the proceedings for want of necessary instructions as per his statement, dated 19th March, 1974.

On the other hand, the workman has himself come into the witness-box and stated that he had started as a Mistry at Rs 150 but when his services were terminated w.e.f. 6th December, 1971 he was getting Rs 200 P.M. He has admitted that the Saw Mill had caught fire on 3rd December, 1971 and after asserted that he had approached the management for the settlement of his account but without any satisfactory response. According to him the work in the Saw Mill was re-started after about 2 months but he was not given any auction to join his duty. Although he has not been gainfully employed anywhere, he does not press his claim for reinstatement and only wants the payments of his dues including arrears of wages, bonus and gratuity. He has refuted the plea of the management regarding the advance of Rs 400 to him.

I have heard the learned representative of the workman and given a careful consideration to the evidence on record. It is a common ground between the parties that the Saw Mill had caught fire and completely burnt down. According to the management it has not yet been re-constructed nor has the work been re-started and that is probably why the workman concerned has not pressed his claim for reinstatement, although according to him he has not been gainfully employed anywhere else. He has no doubt stated that he had approached the management on a number of times for the settlement of his account but without any satisfactory response from the latter and that was sufficient to constitute an industrial dispute within the meaning of the law as laid down in the Sandu Resettlement Corporation Case.

That disposes of issue No. 1 which is decided in favour of the workman and against the management.

So far as issue No. 2 is concerned, the workman has not pressed his claim for reinstatement or reemployment as already stated and the question does not arise on account of the closing down of the work in the Saw Mill on account of the fire that had taken place in the building on 3rd December, 1971. He wants only the payment of his dues including arrears of his wages for a period of 2 months and 5 days at Rs. 200 per mensem which come to about Rs 434, bonus and gratuity which may be found due to him taking into consideration the total length of his service. The management has no doubt denied that any dues were in arrears and further pleased that an advance of Rs 400 was made to him, but there are no vouchers or other relevant documents to support these pleas.

Issue No. 2 is decided in favour of the workman holding that although on account of the burning down of the mills and stoppage of work he could not be retained in service, he was entitled to the payment of his dues including wages for 2 months and 5 days amounting to Rs 434, bonus for the year 1971 and gratuity taking into consideration the length of his service. The awards made accordingly. No order as to costs.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

Dated 25th March, 1974.

No. 802, dated 27th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 2859-4Lab-74/10663.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Khotpura Cooperative Agricultural Service Society Limited, Khotpura, Tehsil and District Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No 29 of 1973

*between*

SHRI MANGAL RAM AND THE MANAGEMENT OF M/S THE KHOUPURA COOPERATIVE AGRICULTURAL SERVICE SOCIETY LIMITED, KHOTPURA, TEHSIL AND DISTRICT KARNAL, GHARAUNDA

*Present :*

Shri Jai Pal, for the workman,

Nemo. for the management.

#### AWARD

The following dispute between the management of M/s The Khotpura Cooperative Agricultural Service Society Limited Khotpura, Tehsil and District Karnal, Gharaunda and its workman Shri Mangal Ram has referred for adjudication to this Court,—*vide* order No. 1D KNL 186-A/73/13551-56, dated 12th April, 1973, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Mangal Ram was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The workman has filed his statement of claim reiterating his demand for reinstatement and back dues as earlier raised through the demand notice leading to the present reference. The management has elected not to appear and contest his claim in spite of due service. Evidence of the workman has, therefore, been recorded. He has made his own statement on oath.

Accordingly to the workman he had started service with the management on 18th January, 1972 and his services were illegally terminated with effect from 10th June, 1972 without any notice or charge-sheet when he was getting Rs. 170 P. M. He has further stated that he had approached the management personally and had also given demand notice in writing asking for his reinstatement but without any response and in the Conciliation proceedings also the management did not show any willingness to take him back on duty. He has further sworn testimony to the fact that in spite of best efforts he has been gainfully employed anywhere during the intervening period of his forced unemployment.

I have heard the learned representative of the workman and given a careful consideration to the facts on record. There is apparently no reason to disbelieve the statement on oath of the workman especially when the management has not cared to appear in the case and refute his claim in spite of due service.

Another person has been appointed in his place without showing any good cause for terminating his service. The issue involved is therefore decided in favour of the workman and against the management holding that the termination of his services is not justified and in order and he is entitled to reinstatement with continuity of his previous service and payment of full back wages. The award is made accordingly. There shall be no order as to costs.

Dated 21st March, 1974

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 801, dated 27th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

**No. 2857-4-Lab-74/10655.**—In pursuance of the provisions of Section 17 of the Industries Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Haryana, Rohtak in respect of the dispute between the workman and the management M/s Shri Shiv Prashad Contractor, Press Mud Removing Section (Saraswati Sugar Mills) Yamuna Nagar.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 16 of 1971

*between*

SHRI JOSHI RAM WORKMAN AND THE MANAGEMENT OF M/S SHRI SHIV PRASHAD CONTRACTOR, PRESS MUD REMOVING SECTION (SARASWATI SUGAR MILLS)  
YAMUNA NAGAR

*Present.*—Shri Madhu Sudan Saran Cowshish for, the workman.

Shri Roshan Lal Gupta, for the management.

#### AWARD

Shri Joshi Ram Truck Driver, workman concerned, claiming himself to be an employee of M/s Saraswati Sugar Mills, Yamuna Nagar raised a dispute against the alleged illegal termination of his services by the management. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, vide order No ID/UMB/193-E-70/3035, dated 22nd January, 1971 referred the dispute to this Court for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act 1947 with the following terms of reference.

Whether the termination of services of Shri Joshi Ram Truck Driver was justified and in order ? If no to what relief is he entitled ?

Usual notices were given to the parties and they put in their respective pleadings giving rise to the following two issues.

- (1) Whether no relief has been claimed by the workmen against the respondent ? If so, with what effect ?
- (2) If issue No. 1 is not proved whether the termination of services of Sh. Joshi Ram was justified and in order ? If not, to what relief is he entitled ?

No evidence has been led on either side. A perusal of the record would show that the demand notice dated 3rd October, 1970 which form apart of the present reference was given by the workmen to the General Manager, Saraswati Sugar Mills, Yamuna Nagar as well as to Shri Shiv Prashad, Contractor, Press Mud Removing Section (Saraswati Sugar Mills) Yamuna Nagar. But the reference has been made against the said Contractor only and the Saraswati Sugar Mills Yamuna Nagar has not been made a party to the reference.

It has been argued on behalf of the contractor that since no relief is claimed against him whether by way of reinstatement or payment of back dues, the reference is liable to be rejected on this ground alone. The contention has force. It is clear from the perusal of the demand notice itself which is the basis of the dispute that the relief of reinstatement and payment of his back dues is to be awarded only by the Sugar Mills and not by the Contractor. The workman has obtained a number of adjournments in the case for approaching the Government for making the Saraswati Sugar Mills Yamuna Nagar also as a party to the reference but without any success and no amended notification are ordered has been received from the Government to implead the said Mill as a party to the proceedings. No reasonable ground for further adjournment in this behalf has been made.

In the circumstances, no further proceedings are called for in the case as according to the showing of the workman himself as per his demand notice referred to above, he is not entitled to any relief against the respondent Shri. Shiv Prashad Contractor. Issue No. 1 is, therefore, decided against him and the award is accordingly made holding that he is not entitled to any relief in the present reference. He may raise a fresh dispute against the management of M/s Saraswati Sugar Mills Yamuna Nagar from whom the relief of reinstatement and payment of back dues he is sought to be claimed, if so advised. There shall be no order as to costs.

Dated the 26th March, 1974.

O. P. SHARMA,  
Presiding Officer,  
Labour Court Haryana, Rohtak.

No. 803, dated 27th March, 1974

Forwarded (four copies) to the Secretary to Governement Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial disputes Act, 1947.

O.P. SHARMA  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

S. N. BHANOT,  
Commissioner for Labour and Employment  
and Secretary to Government, Haryana.